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COMMUNICATIONS  
SECTION

May 24, 1993

Ms. Donna Searcy  
Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

Re: In the Matter of Implementation of Section 25 of the Cable Television  
Consumer Protection and Competition Act of 1992, Direct Broadcast  
Satellite Public Service Obligations  
MM Docket No. 93-25

Dear Ms. Searcy:

Transmitted herewith for filing on behalf of GTE Spacenet Corporation are an original and required copies of its Comments in the above-captioned matter. If there are any questions concerning this matter, please communicate directly with the undersigned.

Sincerely,



Terri B. Natoli

*Enclosures*

cc: Kathleen Levitz, Esq.  
Cecily C. Holiday, Esq.  
Rosalee Chiara, Esq.  
Roy J. Stewart, Esq.  
Andrew J. Rhodes, Esq.

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Implementation of Section 25  
of the Cable Television Consumer  
Protection and Competition Act  
of 1992

Direct Broadcast Satellite  
Public Service Obligations

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MM Docket No. 93-25

COMMENTS OF GTE SPACENET CORPORATION

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May 24, 1993

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## SUMMARY

GTE Spacenet Corporation (“GTE Spacenet”), a Part 25 licensee in the domestic fixed-satellite service submits these comments on the Commission’s Notice of Proposed Rulemaking implementing portions of the Cable Television Consumer Protection and Competition Act of 1992 (“1992 Cable Act”). GTE Spacenet’s comments are limited to addressing the sole question of whether Congress intended a Part 25 domestic fixed-satellite licensee (“domsat licensee”) to be subject to the direct broadcast satellite (“DBS”) obligations of new Section 335 of the Communications Act of 1934, as added, by Section 25 of the 1992 Cable Act if capacity on that licensee’s satellites was used to provide direct-to-home video broadcasting services.

GTE Spacenet agrees with the Commission’s tentative conclusion that Congress did not intend to impose these obligations on the Part 25 domsat licensee. In support of its position and the FCC’s tentative conclusion, GTE Spacenet relies on the legislative history of Section 25 of the 1992 Cable Act, and other related legislative acts and FCC proceedings to show that the Part 25 domsat licensee is not the entity obligated by Congress to fulfill the public interest obligations of new § 335. Moreover, GTE Spacenet explains how impractical it would be, from a provision of service perspective, to expect Part 25 domsat licensees to fulfill these obligations. As a result, GTE Spacenet requests the Commission adopt its tentative conclusion that Part 25 domestic satellite licensees are not subject to new § 335 merely as an incident to holding a Part 25 domestic satellite license.

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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Implementation of Section 25	)	
of the Cable Television Consumer	)	
Protection and Competition Act	)	MM Docket No. 93-25
of 1992	)	
	)	
Direct Broadcast Satellite	)	
Public Service Obligations	)	

COMMENTS OF GTE SPACENET CORPORATION

GTE Spacenet Corporation, ("GTE Spacenet") hereby submits its comments in the above-captioned proceeding and respectfully states as follows:

I. Introduction

On March 2, 1993, the Commission released the text of a Notice of Proposed Rulemaking ("NPRM") proposing rules to implement Section 25 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), Pub. L. No. 102-385, 106 Stat. 1460 (1992). Section 25 of the 1992 Cable Act adds a new Section 335 to the Communications Act of 1934, as amended, 47 U.S.C. 151 et. seq., which requires the Commission to impose various public interest obligations, ("DBS obligations") including the political programming requirements of § 312 (a) (7) and § 315 of the Communications Act on providers of direct broadcast satellite service, ("DBS providers"). At the outset, the Commission seeks to define those DBS providers which would be subject to its newly proposed rules consistent with Congress's intent in the 1992 Cable Act. To that end, the FCC solicits comment on the obligations of both Part 25 and Part 100 DBS providers.

Part 25 DBS services involve direct-to-home delivery of video programming via domestic fixed-satellites operating in the 11.7 to 12.2 GHz frequency band using lower

power delivery and larger home satellite antennas than the true DBS service provided under Part 100 of the FCC's rules via high-power satellites transmitting in the 12.2 to 12.7 GHz frequency band to very small home-antennas of one meter or less. GTE Spacenet holds the licenses for nine domestic fixed-satellites granted pursuant to Part 25 of the FCC's rules.<sup>1</sup> 47 C.F.R. § 25.114. All of GTE Spacenet's satellites operate in the 11.7 - 12.2 GHz frequency band. As such, GTE Spacenet has a keen interest in the above-captioned proceeding to the extent that the rules proposed in the FCC's NPRM could ultimately apply to GTE Spacenet if the FCC interprets the 1992 Cable Act's reference to "providers of direct broadcast satellite service" as applying to the Part 25 satellite licensee. As a result, GTE Spacenet is submitting its comments to address only the issue of whether or not the 1992 Cable Act intended that the Part 25 domsat licensee be the entity subject to the DBS obligations of new § 335 of the Communications Act, as added, by Section 25 of the 1992 Cable Act. GTE Spacenet fully supports the FCC's tentative conclusion that it is not the domestic fixed-satellite licensee ("Part 25 domsat licensee"), but rather the entity that is actually responsible for the provision of the video programming to the home viewer, i.e. the distributor/programmer, that is the entity which may be subject to the DBS public interest obligations.

II. The Legislative History and Plain Language of the 1992 Cable Act Support a Definition of DBS Provider Which Does Not Include the Part 25 Domestic Satellite Licensee

The Commission's attempt to precisely define Congress's intent in new § 335 of the Communications Act as to the term "providers of direct broadcast satellite service," as it pertains to DBS services provided over Part 25 facilities under Section 25 of the 1992

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<sup>1</sup> See, Southern Pacific Communications Company, 84 FCC 2d 650 (1981), (SPACENET I and II); Southern Pacific Communications Company, 94 FCC 2d 457 (1983), (SPACENET III); GTE Spacenet Corporation, 103 FCC 2d 644 (1985), (SPACENET IV); American Satellite Company, 94 FCC 2d 39 (1983), (ASC-1 and II (SPACENET-IV-n)); GTE Satellite Corporation, 84 FCC 2d 562 (1981) (GSTAR I and II); GTE Satellite Corporation, 103 FCC 2d 644 (1985), (GSTAR III and IV).

Cable Act, relates to two separate and distinct sub-sections of § 335, i.e., § 335 (a) and § 335 (b). Under § 335 (a), Congress mandates that the Commission impose upon “providers of direct broadcast satellite service” the public interest broadcasting requirements of § 312 (a) (7) and § 315 of the Communications Act of 1934. Section 335(a), however, fails to define “providers of direct broadcast satellite service.” Under § 335(b), Congress mandates that the Commission, in addition to the obligations of § 335(a), impose certain public use requirements on “providers of direct broadcast satellite service.” Section 335(b)(5)(A)(ii) supplies a definition for “provider of direct broadcast satellite service” as it relates to Part 25 of the FCC’s Rules.<sup>2</sup> As the Commission notes in the NPRM, that definition is “any distributor who controls a minimum number of channels . . . using a Ku-Band fixed service satellite system for the provision of video programming directly to the home and licensed under Part 25 of Title 47 of the Code of Federal Regulations.”<sup>3</sup> Using this definition as its starting point, the Commission seeks first, to determine whether Congress intended the undefined “provider of direct broadcast satellite service” under § 335 (a) to be the same entity as that referred to under § 335 (b) and secondly, if so, who is the entity that is the “distributor who controls a maximum number of channels” for purposes of refining the § 335 (b) definition of “providers of direct broadcast satellite service.”

The answer to the Commission’s inquiries can be found in the legislative history of the 1992 Cable Act. The Conference Report<sup>4</sup> at page 100 indicates that the Conference Agreement adopted the House Amendment regarding the DBS obligations imposed by the 1992 Cable Act, which are reflected in new § 335 of the Communications Act of 1934, as amended. Reference to the proposed House Amendment (Sec. 18(a)(3) and (a)(4)) and the Section-By-Section Analysis, of Section 18 (a)(3) and (a)(4)<sup>5</sup> makes clear that, at least

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<sup>2</sup> 1992 Cable Act, § 25.

<sup>3</sup> NPRM at para. 9.

<sup>4</sup> H.R. Rep. No. 102-862, 102D. Cong., 2d Sess. 100 (1992)

<sup>5</sup> H.R. Rep. No. 102-628, 102D. Cong., 2d Sess. 24-25, 124 (1992).

with respect to the public use requirements of new § 335 (b) Congress did not intend it to apply to the Part 25 domsat licensee. This is evidenced by the language in the House Report which states:

The requirements of subsection (a) (4) [new § 335 (b)] are intended to apply only to direct broadcast satellite providers, which the Commission shall interpret to mean a person that uses the facilities of a direct broadcast satellite system to provide point-to-multipoint video programming for direct reception by consumers in their homes. The Committee does not intend that the licensed operator of the DBS satellite itself be subject to the requirements of this subsection unless it seeks to provide video programming directly. (emphasis added.)<sup>6</sup>

The Part 25 domsat licensee, to the extent that any direct-to-home Ku-Band services are offered over its facilities, would be the “DBS satellite” referred to in the House report. As such, it is evident that a Part 25 domsat licensee, such as GTE Spacenet, as the licensed operator of the satellite, is not the entity upon which Congress intended to impose the DBS public interest obligations merely as an incident of holding the Part 25 license for a satellite over which direct-to-home services are delivered.

Moreover, the term “distributor” as used in the definitional section of new § 335 is not a term which is typically applied in the domestic satellite industry to the licensee/operator of a domestic fixed-satellite. The term “distributor” is more accurately used to describe those entities which are responsible for packaging a service and orchestrating the final delivery of that service to the end-receiver.<sup>7</sup> The domestic fixed-satellite licensee, as described in more detail below, merely supplies the Part 25 facility which the distributor, i.e. the provider of DBS service, uses to deliver the video

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<sup>6</sup> Id., at 124.

<sup>7</sup> See e.g., Report and Order, Implementation of the Cable Television, Consumer Protection and Competition Act of 1992, MM Docket No. 92-259, released March 29, 1993 at para. 130, where the definition of a multichannel distributor is “a person . . . who makes available for purchase, by subscribers or customers, multiple channels of video programming.” (emphasis added.)



programming directly to the home. The provision of the satellite facility alone, however, does not make the domsat licensee a DBS provider.

GTE Spacenet does not find the language of the §335 (b)(5)(A)(ii) ambiguous in its reference to the phrase “licensed under Part 25.” Based on the terminology and practices which prevail in the domestic satellite industry, that phrase most appropriately refers to the satellite licensed under Part 25, not the distributor. As the Commission has correctly noted, the distributor, who may be a direct programmer-customer of the Part 25 satellite licensee or may be several layers removed from the satellite licensee or its direct customer, often times is not itself licensed by the FCC. The fact that the real DBS distributor is not necessarily licensed however, should not form the basis upon which the Commission imposes the DBS public interest obligations on the domsat licensee when the plain language of the 1992 Cable Act imposes those obligations on the distributor, the real entity that is the provider of the DBS service.<sup>8</sup>

Given then that a Part 25 domsat licensee is not a “provider of direct broadcast satellite service” under new § 335 (b), it would be difficult to imagine that Congress intended that same Part 25 satellite licensee to be included in the § 335 (a) obligations, particularly since those obligations, i.e. § 312 (a) (7) and § 315, are broadcast licensee obligations which stem directly from the “public trustee”<sup>9</sup> broadcast nature of the entity subject to them. Since Part 25 domsat licensees are not public trustees in the sense that broadcast licensees are, imposing the obligations of § 312 (a) (7) and § 315 without also

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<sup>8</sup> This is not to say there could never be a situation where a domsat licensee was also a distributor of direct-to-home service subject to the DBS public interest obligations. This would occur if the satellite licensee itself chose to enter the business of providing programming directly to the home. If a particular Part 25 domsat licensee were to enter the direct-to-home program delivery market however, its public interest obligations under the 1992 Cable Act would stem from the fact that it was functioning as a distributor/provider of direct-broadcast satellite service, not because it was a Part 25 licensee.

<sup>9</sup> See e.g. Brandywine Maine Line Radio Inc. v. FCC 473 F.2d 16, 43 (D.C. Cir. 1972).

imposing the public trustee type broadcasting obligations of new § 335 (b) would appear inconsistent with, and contrary to, Congressional intent.

III. As a Practical Matter, The Manner in Which Part 25 Domsat Licensees Provide Service Does Not Lend Itself to the DBS Public Interest Obligation Scheme of § 335

As a practical matter, the manner in which domsat licensees in general, and GTE Spacenet, in particular, provide capacity to customers makes it impractical to impose the DBS public interest obligations on domsat licensees without upsetting the entire fixed-satellite service offering scheme. This is true whether the domsat licensee provides service on a common carrier basis or a non-common carrier basis pursuant to the FCC's Transponders' Sales Authority.<sup>10</sup> In either case the domsat licensee may not know the specific uses to which the video capacity is being put. This can be illustrated as follows: When a customer or prospective user approaches GTE Spacenet for service, generally that customer has specific requirements in terms of power levels, bandwidth, geographic coverage, etc. which it communicates to GTE Spacenet. In addition, it will explain what general type of traffic requirements it has, i.e. voice, data (SCPC), dual video, single video, etc. Often however, a customer requesting video capacity is no more specific with respect to what type of video use it makes of the capacity other than to indicate a requirement for capacity capable of transmitting video at certain specified technical parameters. If that particular customer is planning a direct-to-home video application, GTE Spacenet will not necessarily know that. Moreover, GTE Spacenet's customer may be operating as a reseller who will sell the video capacity it buys or leases from GTE Spacenet to a number of other video service users. When a customer requests capacity capable of carrying video traffic, the same amount of bandwidth is generally required for all types of

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<sup>10</sup> Domestic Fixed-Satellite Transponder Sales, 90 FCC 2d 1238 (1982), (hereinafter, Transponder Sales) aff'd sub nom, Wold Communications, Inc. v. F.C.C., 735 F.2d 1465 (D.C. Cir. 1984).

video applications.<sup>11</sup> This will similarly hold true when compressed digital bandwidth for video applications becomes more prevalent -- essentially, there is no relationship between the amount of bandwidth and the particular type of video application. For example, a full-time business television or video conferencing channel uses the same amount of bandwidth as a full or part-time direct-to-home video distribution channel. In other words, there are numerous video applications for which users obtain GTE Spacenet video capacity and often, depending on the sophistication of the particular user, the customer may only indicate what operational parameters it requires for its video application. So long as that user agrees to abide by the technical parameters authorized by the FCC for GTE Spacenet's satellites in their respective licenses, and as long as the customers' requirements from a technical and operational perspective are compatible with adjacent satellite and/or transponder operations so as to ensure compliance with inter and intra-satellite coordination agreements, a domsat licensee has no reason to know, or inquire, as to what specific use the customer is making of the video transmission capacity or even what type of information and to whom it is transmitting.<sup>12</sup>

In order to assure that a particular customer's use of GTE Spacenet capacity will remain within GTE Spacenet's licensed parameters, as well as be compatible with other domsat users in the geostationary arc, GTE Spacenet does require information from the customer regarding its uplink performance characteristics. This information, however, is not sufficient to determine if the video application is direct-to-home. Moreover, even if GTE Spacenet required detailed downlink information (which is not necessary to ensure compliance with the domsat license) it would be speculation, at best, for GTE Spacenet to attempt to surmise whether or not the video application was going to be direct-to-home

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<sup>11</sup> Examples of various video uses of satellite capacity other than direct-to-home video include: 1) distance learning applications; 2) business television; 3) video conferencing; and 4) non direct-to-home entertainment video.

<sup>12</sup> See, Petition for Reconsideration and/or Clarification by GE American Communications, Inc. Docket 86-496, April 12, 1993, at page 11-13 where GE American Communications, another domsat licensee, illustrates GTE Spacenet's point herein.

without also knowing the actual size of the receive antenna. Moreover, in many cases, GTE Spacenet's direct customer may operate as a reseller who uplinks the video services of many other users for numerous types of video applications<sup>13</sup> - thus, even GTE Spacenet's knowledge of the particular use its customer plans to make of its capacity would not necessarily provide GTE Spacenet notice that its capacity was being used for direct-to-home broadcast applications. Thus, as a result of the way service is provided to users of Part 25 domestic fixed satellites, it would be highly impractical for the domsat licensee to be the entity subject to fulfilling the requirements of new § 335.

To illustrate further, under new § 335 (a), if a domsat licensee were to be subject to § 312 (reasonable access to a qualified candidate) or § 315 (equal access) of the Communications Act, the FCC would be essentially obligating that domsat licensee to enforce those provisions of the Communications Act even though it lacks the necessary control<sup>14</sup> over, or knowledge of, the use of the transponder used by the entity ultimately providing the direct-to-home service. Recall, this entity often is not even the domsat licensee's direct customer. For the domsat licensee to enforce these requirements, there would have to be some mechanism whereby: 1) it was notified that a user of its satellite had done something which triggered the obligations of § 312 or § 315; 2) it had some enforcement mechanism to compel the user to comply with § 312 or § 315; and 3) if the user (who may have no relationship with the domsat whatsoever) refused, the domsat licensee itself would have to comply. How the domsat licensee actually complied could conceivably involve taking capacity from one of its other customers on non-direct-to-home

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<sup>13</sup> Although the uplink earth station operator is also a Part 25 licensee, the uplink operator may also be functioning as a reseller of the uplink station without knowledge of the specific video use for which its uplink station is being made.

<sup>14</sup> The domsat licensee always controls the transponder in the sense that it is responsible under its license for assuring that it is operated in a manner which complies technically with Part 25 of the FCC's Rules and with the domsat's license terms, but the licensee has no control over, or knowledge of, the specific purpose for which the transponder is used beyond its technical characteristics.

video transponders and, worse yet, forcing the domsat licensee into functioning as a broadcaster which it may have no desire to do.

Likewise, imposing the obligations of § 335 (b) on a domsat licensee would be impossible. Under § 335 (b), Congress directs the Commission to require providers of direct broadcast satellite service to reserve portions of channel capacity, determined as a percentage of total capacity available for direct-to-home video service, for non-commercial, educational and informational programming. From one day to the next, the amount of channel capacity on a domestic-fixed-satellite used for direct broadcast satellite applications may vary widely. For example, if the domsat licensee reserves certain transponders for occasional use video services, some of those occasional use customers may have direct broadcast applications and others may be using those transponders for satellite news gathering (“SNG”), video-conferencing, or other non-DBS applications. In GTE Spacenet’s case, the user will contact the Video Scheduling Office to reserve the time, and beyond that GTE Spacenet will not necessarily be aware of the occasional user’s specific video use. Domestic fixed satellites serve a variety of users and provide many types of services over their transponder capacity. There is no predetermined percentage of capacity reserved for direct broadcast uses, and, at different times during a domestic satellite’s in-orbit life, the amount of capacity used for direct broadcast service could (and does) vary widely without the control or knowledge of the licensee. This differs completely from the true DBS satellites licensed under Part 100. Those satellites are licensed ultimately for one specific purpose, i.e., direct-broadcast satellite service.<sup>15</sup> Thus, when a true DBS satellite is authorized for construction and operation, there is a predetermined number of channels specified for direct-to-home service<sup>16</sup> i.e. the number of channels at each orbital assignment which the Part 100 DBS licensee of that DBS satellite may use to provide

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<sup>15</sup> See, Report and Order, Gen. Docket No. 80-603, 90 FCC 2d 676, 677, n. 1 (1982).

<sup>16</sup> See e.g. Advanced Communications Corp., 6 FCC Rcd. 2269 (1991).

direct-to-home service. A requirement to set aside a fixed percentage of this known quantity for the non-commercial obligations of § 335 (b), can more easily be accomplished. Part 25 domestic satellites, however, have no such requirement that any transponders/channels to be made available for direct-to-home video services.

The manner in which Part 25 domsat licensees are authorized and make capacity available to users is not consistent with or amenable to the new § 335 obligations. For that reason alone, Congress could not have intended to upset the entire domestic-fixed satellite scheme by imposing on the Part 25 domsat licensee the § 335 obligations, unless, and until, that licensee is also acting as a distributor of video programming directly to home users.

Finally, GTE Spacenet requires, as a condition of providing service, that any user abide by all applicable governmental and FCC rules and regulations. Thus, to the extent that the FCC imposes obligations on users of Part 25 satellite facilities who are not themselves licensed under Part 25, at least with respect to GTE Spacenet satellites, if any of those users were direct-to-home broadcast satellite providers, they would, by virtue of their agreement to take service from GTE Spacenet, be subject to complying with new § 335 of the Communications Act if it were made applicable to them.

IV. A Commission Determination That A Part 25 Domestic Satellite Licensee is the Entity Subject to the § 335 Obligations Would Be Contrary To Prior Commission Findings and Congressional Directives

In prior FCC proceedings, those specifically related to implementing the 1992 Cable Act and others, the FCC has interpreted Congressional intent to exclude the Part 25 domsat licensee, like GTE Spacenet, from broadcasting-type requirements, regulations and rules. These rules and regulations historically have been directed at the entity actually distributing (i.e. broadcasting) the video programming to the home viewer. In other words, the FCC has consistently found that the domsat licensee is not the “distributor,” or

“provider” of direct-to-home video programming service merely by virtue of the fact that its transponder facilities are the transmission medium by which the video programming is carried to the home.

As early as 1984, on remand by the D.C. Circuit Court of Appeals in United States Satellite Broadcasting Company v. FCC, 740 F. 2d 1177 (1984) (“USCI Case”) the Commission was tasked with deciding whether the Part 25 domestic satellite licensee involved in that case (GTE Satellite Corporation) (“GSAT”) or its customer (USCI) was the entity responsible for ensuring that the statutory broadcasting obligations of the Communications Act were fulfilled. 740 F.2d at 1187. USCI was a customer of GSAT which was implementing a direct-to-home video broadcasting service in the fixed-satellite band at 11.7 - 12.2 GHz. When the D.C. Circuit Court of Appeals found that USCI was functioning as a broadcaster, it left it to the Commission to interpret the broadcasting obligations of the Communications Act and decide whether USCI, the actual provider of the direct-to-home video service, or GSAT, the provider of the satellite capacity used for the direct-to-home service, was subject to fulfilling the broadcasting obligations. This presented the FCC with the opportunity to find that the Part 25 domsat licensee was the entity burdened with the broadcasting obligations rather than its broadcaster customer, but the FCC did not make such a finding.

More recently, in the Satellite Home Viewer Act of 1988, 17 U.S.C. § 119 the term “satellite carrier” was used to refer to an entity that uplinks a broadcast signal and re-transmits it over satellite facilities which that carrier may lease or own to home satellite dish users. 17 U.S.C. § 199 (d). It is the satellite carrier, i.e., the entity broadcasting the signal to the home viewer, that is the subject of the requirements of the Satellite Home Viewer Act. The domsat licensee of the satellite over which the programming material is carried is not subject to the 1988 Act just by virtue of its provision of the transmission medium.

Most recently, in the FCC's Report and Order in MM Docket 92-259, released on March 29, 1993,<sup>17</sup> the FCC had reason to define "multichannel video programming distributor" for purposes of applying the retransmission consent provisions of the 1992 Cable Act embodied in new § 325 (b) of the Communications Act. The 1992 Cable Act at § 602 (12) includes direct broadcast satellite service within the definition of multichannel video programming distributor. In seeking to determine who is the video programming distributor for retransmission obligations under § 325 (b), the FCC looked to the Satellite Home Viewer Act of 1988 and determined that it is not the Part 25 domsat licensee, but the entity which is termed the satellite carrier, the entity which is responsible for putting together the service which is ultimately received by direct-to-home receivers. Thus, the FCC has correctly recognized that the Part 25 domsat licensee does not take on the characteristics of its users merely as an incident to providing them capacity.

#### V. Summary and Conclusion

In this instant proceeding, the FCC is faced with the important task of implementing the Direct Broadcast Satellite Public Service Obligations of the 1992 Cable Act embodied in new § 335 of the Communications Act of 1934. Prior to defining just what those specific obligations may be, the Commission must identify those entities to which Congress intended these obligations to pertain. The FCC has tentatively concluded that the distributor of video programming services, i.e., the provider of direct broadcast satellite service, as referred to under the 1992 Cable Act is a different entity than the Part 25 domestic satellite licensee which supplies the transmission medium used to broadcast the video programming to the home viewer. As such, the Commission has tentatively determined that the Part 25 domestic satellite licensee is not the entity subject to the § 335 DBS obligations.

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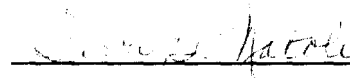
<sup>17</sup> MM Docket 92-259, supra note 6, at para. 130.



GTE Spacenet is submitting these comments to express its strong support for the FCC's tentative conclusion. GTE Spacenet has set forth the relevant legislative history which supports this finding. It has explained how it would be impractical, if not impossible, from a service provision basis for a Part 25 domsat licensee to fulfill these obligations. Finally, it has shown how this conclusion is consistent with the way the FCC has interpreted its obligation to impose other broadcasting-type requirements on those entities which are the distributor/providers of video services directly to the home.

For the foregoing reasons, GTE Spacenet urges the Commission to conclude that the Part 25 domestic fixed-satellite licensee is not the entity subject to new § 335 of the Communications Act of 1934, as amended, merely as an incident of holding the Part 25 license.

Respectfully submitted,



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*Attorney for GTE Spacenet Corporation*

May 24, 1993

CERTIFICATE OF SERVICE

I, Raina N. Price-Webster, do hereby certify that a copy of the attached COMMENTS OF GTE SPACENET CORPORATION, which was filed with the Federal Communications Commission on May 24, 1993, has been served today to the following recipients via hand-delivery

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